

Memorandum

330.1874.200

To: Mr. Glenn Bystrom

Date: May 20, 1996

From: Gary Jugum

Subject: Non-Attorney Opinions

I have reviewed your memorandum of July 16, 1992 to --- --- ---

We are in agreement with his conclusion, as follows:

Bank Documentation Fees. A bank enters into agreements with various car dealers to lease vehicles to customers obtained by the various car dealers. The dealers secure approval of the potential lessees from the bank and prepare the lease contracts which show the bank as the lessor. The drive-off costs to a customer included the first month's lease amount, DMV fees cap reduction, and a \$400 bank documentation fee. The vehicles are registered in the name of the bank and the lessees. It was asked whether the bank documentation fees are included as part of the auto lease receipts subject to tax.

The documentation fees appear to be charges required to be paid by the lessees under the term of the leases and are related to the taxable sales (leases) of tangible personal property. Assuming that the fees are remitted to the bank by the dealers (or netted by the bank from the payment for the vehicle to the dealers), it is concluded that the documentation fees should be included in the bank's gross receipts and that the rental charges are subject to tax. 7/16/92

Memorandum

330.1874.200

To: Mr. Joseph J. Cohen
Hollywood – District Principal Auditor

Date: July 16, 1992

From: Glenn A. Bystrom
Principal Tax Auditor

Subject: Bank Documentation Fees

This is in response to your memorandum of June 2, 1992, regarding the application of tax to “bank documentation fees” charged by leasing companies.

In your memorandum, you explained that an audit of --- --- --- disclosed that the bank was not including “bank documentation fees” as part of its auto lease receipts subject to tax. You explained that the bank enters into agreements with various car dealers to lease vehicles to customers obtained by the dealers. The dealers secure approval of the potential lessees from the bank and prepare the lease contracts which show the bank as the lessor. The drive-off costs to a customer include the first month’s lease amount, DMV fees, cap reduction, and a \$400 bank documentation fee. The vehicles are registered in the name of the bank and the lessees. The bank remits payment of the vehicles to the dealerships less all monies already received and kept by the dealerships from the lessees. The bank reports tax on the first monthly lease payments, the cap reductions, and on subsequent monthly lease payments. No tax is collected nor remitted on the \$400 bank documentation fees.

You have also learned that other credit corporations such as --- --- --- and --- --- --- charge similar fees on their rental agreements without tax. You believe that such fees are includable in taxable gross receipts and ask if there is some reason, unknown to you, that would exempt these fees.

The documentation fees appear to be charges required to be paid by the lessees under the terms of the leases and are related to the taxable sales (leases) of tangible personal property. Assuming that the fees are remitted to the bank by the dealers (or netted by the bank from the payment for the vehicle to the dealers), I agree that the documentation fees should be included in the bank’s gross receipts and that the rental charges are subject to tax.

I was unaware that a problem existed in this area. Therefore, by copy of this letter, I am advising all districts to be aware of this possibility and to investigate this area in their audits of credit corporations, leasing companies and car dealerships.

GAB:sls
B-A809

cc: Mr. Robert Nunes
Mr. Charles L. Cordell
District Administrators